Docket No.: 192863US0PCT

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313
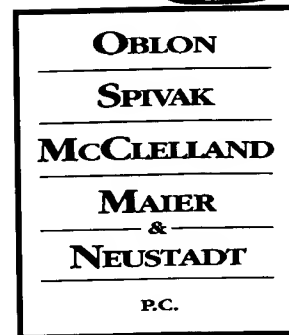
RE: Application Serial No.: 09/555,529
Applicants: Patricia KANNOUCHE, et al.
Filing Date: July 24, 2000
For: SEQUENCES ENCODING A KIN17 PROTEIN AND
USES THEREOF
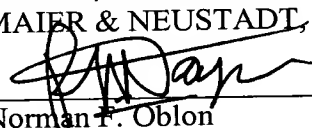Group Art Unit: 1634
Examiner: Diana Johannsen

SIR:
Attached hereto for filing are the following papers:

Response to Restriction and Election of Species Requirement

Our check in the amount of **0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
PATRICIA KANNOUCHE, ET AL.	: EXAMINER: JOHANNSEN, DIANA
SERIAL NO: 09/555,529	:
FILED: JULY 24, 2000	: GROUP ART UNIT: 1634
FOR: SEQUENCES ENCODING A KIN17 PROTEIN AND USES THEREOF	:

RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Election of Species Requirement of May 6, 2003, Applicants elect, with traverse, a primer pair for amplification of human sequences as pair SEQ ID NO:18 and SEQ ID NO:19; and a primer pair for amplification of mouse sequences: pair SEQ ID NO:27 to SEQ ID NO:28. Claims 45, 48, 49, 68, 71, 74, 75, 76, 77, 78 read on the elected species.

REMARKS

The Office has required an Election of Species of one primer pair for amplification of human sequences and one primer pair for amplification of mouse sequences.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identified groups.
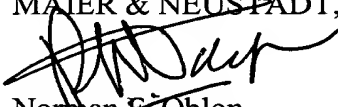
The Office PCT Rule 13.1 and 13.2, contends that the species do not relate to a single general inventive concept because they lack the same or corresponding special technical feature because "each of the multitude of primer pairs encompassed by Claims 45-46, 48-49, 68-69, 71-71 and 77-78 constitutes a separate species." However, the Office merely stated that "each primer pair is characterized by a different combination of particular nucleotide sequences and functions in the amplification of different target sequence" and made an unsupported conclusion. Accordingly the Applicants respectfully request that restriction is improper must be withdrawn.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Election of Species Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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